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Twenty-seventh meeting of chairpersons of the human rights treaty bodies
San José, 22–26 June 2015
Item 4 (a) of the provisional agenda
Follow-up to General Assembly resolution 68/268 on strengthening and enhancing the effective functioning of the human rights treaty body system and to the conclusions and recommendations of the twenty-sixth meeting of chairpersons: general discussion, including on the Secretary-General's progress report mandated by resolution 68/268

Implementation by treaty bodies of the conclusions and recommendations of the treaty body chairpersons at their twenty-sixth meeting in the framework of General Assembly resolution 68/268

Note by the Secretariat

Summary

The chairpersons of the human rights treaty bodies, at their twenty-sixth annual meeting, reaffirmed the commitment of the human rights treaty bodies to further develop their work as a system by continuing to review good practices regarding the application of rules of procedures and working methods in their ongoing efforts towards strengthening and enhancing the effective functioning of the treaty bodies, in the light of General Assembly resolution 68/268. The chairpersons endorsed common working methods and approaches pertaining to the simplified reporting procedure, the constructive dialogue and concluding observations, as well as common policies on reprisals, and invited the treaty bodies to consider endorsing such working methods, approaches and policies.

The present note by the Secretariat contains an overview of follow-up by treaty bodies to the conclusions and recommendations formulated by the chairpersons at their twenty-sixth meeting in the framework of General Assembly resolution 68/268.

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I. Introduction

1. The General Assembly, in its resolution 68/268 on strengthening and enhancing the effective functioning of the human rights treaty body system, recognized the importance of continued efforts to improve the efficiency of the working methods of the human rights treaty body system. It encouraged the human rights treaty bodies to continue to enhance their efforts towards achieving greater efficiency, transparency, effectiveness and harmonization through their working methods, within their respective mandates, and in that regard encouraged the treaty bodies to continue to review good practices regarding the application of rules of procedure and working methods in their ongoing efforts towards strengthening and enhancing their effective functioning.

2. The chairpersons of the human rights treaty bodies, at their twenty-sixth annual meeting, held from 23 to 27 June 2014, expressed the commitment of the human rights treaty bodies to further developing their work as a system by continuing to review good practices regarding the application of rules of procedure and working methods in their ongoing efforts towards strengthening and enhancing the effective functioning of the treaty bodies (see A/69/285, para. 75).

3. The chairpersons also reiterated the decision taken at previous meetings that they should adopt measures on working methods and procedural matters that were common across the treaty body system and had been discussed previously within each committee, and that such measures should be implemented by all treaty bodies unless a committee subsequently dissociated itself from them (ibid., para. 77).

II. Simplified reporting procedure

4. The chairpersons, at their twenty-sixth annual meeting, drew the committees' attention to the call made by the General Assembly in resolution 68/268, paragraph 1, to make available to States a simplified reporting procedure. The chairpersons recognized that, as of 1 January 2015, periodic reports would be subject to the limit on word length set out in paragraph 16 of resolution 68/268. In response to the changed situation, the chairpersons endorsed the view that committees that examined periodic reports should consider making a simplified reporting procedure available after 1 January 2015 (ibid., para. 87). They also endorsed the view that committees might consider making a simplified process available for the consideration of initial reports in those specific instances where they believed that would enhance the constructive dialogue (ibid., para. 88). The chairpersons recommended that each treaty body should consider revising its existing reporting guidelines with a view to ensuring that States parties were able to submit reports that conformed both to those guidelines and to the word limits set out in paragraph 16 of resolution 68/268 (ibid., para. 92), namely, 21,200 words for periodic reports, 31,800 words for initial reports and 42,400 words for common core documents.

5. The simplified reporting procedure does not apply to the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment or the Committee on Enforced Disappearances (CED), given that the Subcommittee does not have a reporting procedure at all and that CED does not have a periodic reporting procedure.

6. Eight treaty bodies agreed in principle to offer to States parties the simplified reporting procedure. Four treaty bodies, namely, the Committee against Torture (CAT), the Human Rights Committee (HR Committee), the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) and the Committee on the Rights of Persons with Disabilities (CRPD), were already offering or had already decided

to offer the simplified reporting procedure prior to the adoption of General Assembly resolution 68/268. Since the adoption of that resolution and the recommendation issued by the chairpersons on the subject at their twenty-sixth meeting, another four treaty bodies have decided to make available the simplified reporting procedure, namely, the Committee on the Rights of the Child (CRC), the Committee on Economic, Social and Cultural Rights (CESCR), the Committee on the Elimination of Discrimination against Women (CEDAW) and the Committee on the Elimination of Racial Discrimination (CERD). Some are doing so on a pilot or trial basis (CESCR and CEDAW), some with certain modalities (CRC after it reduces the backlog, CEDAW on the condition that States parties submit an updated common core document in the preceding five years, or less in case of significant political or socioeconomic changes) and some for a limited number of periodic reports (CERD for reports more than five years overdue, CESCR as of the third periodic report). One committee (CEDAW) decided to limit strictly the number of questions asked in the questionnaire for the simplified reporting procedure, referred to as the list of issues prior to reporting, to 25.

7. In May 2007, CAT became the first treaty body to offer the simplified reporting procedure, which it called the "lists of issues prior to reporting" procedure. Furthermore, in November 2014, the Committee decided to offer the simplified reporting procedure to States parties with long overdue initial reports (up to two States parties per year, bearing in mind capacity) and to enhance the role of country rapporteurs by having them provide a brief presentation on the main priorities (to be implemented as of April 2015). The Committee also decided to establish a working group to contribute to a substantive evaluation of the simplified reporting procedure. The working group is expected to report on its findings by August 2015.

8. In July 2014, the HR Committee agreed that the simplified reporting procedure should, in principle, be offered to all States parties rather than only to States parties whose periodic reports were 10 or more years overdue and whose reports were due in 2013 and beyond, once the Bureau had elaborated the relevant modalities. The Committee also agreed to review the reporting guidelines adopted in 2010 to see if any changes needed to be made, in particular in the light of the word limits on State party reports.

9. In April 2011, CMW decided to adopt the simplified reporting procedure for periodic reports and, in July 2011, it sent a note verbale to those States parties whose periodic reports were pending, informing them about the new procedure and inviting them to submit their reports under the new procedure. Since April 2013, the Committee has systematically included in its concluding observations a standard paragraph inviting the State party concerned to avail itself of the simplified reporting procedure. By March 2015, 17 out of 47 States parties had accepted the procedure, and others are considering it. Five States parties submitted their periodic reports under the procedure in 2014.

10. In September 2011, CMW further decided to examine the reports of States parties according to a reporting calendar, established on the basis of the reporting periodicity set out in the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, whereby the implementation of the Convention by all States parties would be considered within a five-year reporting cycle starting in 2014, with a view to ensuring full compliance by all States parties, on an equal footing, with their reporting obligations under article 73 of the Convention. In order to ensure compliance with the calendar, in April 2012 the Committee amended its provisional rules of procedure to provide for the consideration of States parties with long overdue reports, both initial and periodic, in the absence of a report.

11. In September 2013, CRPD adopted the simplified reporting procedure for periodic reports. By March 2015, 10 out of 19 States parties whose initial report had been reviewed

by the Committee had accepted the procedure, and others are considering it. The Committee will adopt its first list of issues prior to reporting in September 2016.

12. In September 2014, CRC decided to adopt the simplified reporting procedure in principle and to offer it to States parties in 2016, after having reduced the backlog of reports awaiting consideration.

13. In May 2014, CESCR decided to pilot the simplified reporting procedure once its backlog was reduced. In November 2014, the Committee discussed criteria for identifying States to pilot the simplified reporting procedure and decided to offer the procedure to States parties with periodic reports, from the third periodic report and onwards, due in 2017. At the time of drafting the present report (March 2015), the Committee had offered the simplified reporting procedure to nine States parties.

14. In August 2014, CERD decided to adopt the simplified reporting procedure and to start implementing it gradually by offering it to States parties whose periodic reports were more than five years overdue. The Committee also decided to prioritize States parties whose periodic reports were more than 10 years overdue.

15. In July 2014, CEDAW decided to offer, on a pilot basis, the simplified reporting procedure for periodic reports as from 1 January 2015, provided that the States parties concerned had submitted an updated common core document, in accordance with the harmonized guidelines, that dated back no more than five years, or less in cases where there had been significant political and/or socioeconomic changes during the five-year period.

16. In November 2014, CEDAW decided to entrust its pre-sessional working group, to be convened after each regular session, with the preparation of draft lists of issues prior to reporting under the simplified reporting procedure. The drafts will be approved by the Committee at its following regular session. During the pilot phase, the simplified reporting procedure will be offered to States parties only for overdue periodic reports. The number of lists of issues prior to reporting to be adopted per year may be limited during the pilot phase based on resource constraints faced by the Committee and its secretariat. The Committee further decided to limit the number of questions in the list of issues prior to reporting to 25.

III. Constructive dialogue

17. The chairpersons, at their twenty-sixth annual meeting, expressed their support for the objectives set out in paragraph 5 of resolution 68/268, which encompassed making the dialogue more effective, maximizing the use of the time available and allowing for a more interactive and productive dialogue with States parties. The chairpersons underlined the need for each treaty body to have flexibility in conducting the dialogue in accordance with the specificities of each convention, and recalled that the chairperson of each committee was responsible for ensuring that the dialogue was conducted in a constructive, effective and efficient manner.

18. The chairpersons further invited the committees to consider making the guidance note on the constructive dialogue (A/69/285, annex I) available to States parties, with a view to assisting them.

19. Since the twenty-sixth meeting of the chairpersons, five treaty bodies, namely, CRPD, CAT, CED, CEDAW and CESCR, have adopted or endorsed the guidance note for States parties on the constructive dialogue. Reservations were expressed by some CESCR members. The HR Committee decided to update its own guidance note, taking into account the guidance note recommended by the chairpersons at their meeting. Three treaty bodies, CERD, CRC and CMW, considered the guidance note and deemed that their practice was

already in line with the note. The recommendations of the chairpersons relating to the constructive dialogue do not apply to the Subcommittee on Prevention of Torture.

20. In July 2014, in addition to deciding to update, to the extent deemed appropriate, its guidance note for States parties in the light of the guidance note recommended by the chairpersons, the HR Committee agreed that indicative rather than strict speaking time limits would be piloted by the current Chairperson.

21. In August 2014, CERD noted that its practice in relation to the constructive dialogue was mostly in line with the recommendations of the chairpersons. Furthermore, the Committee decided to continue its reflections on the possible use of country teams at its next session.

22. In November 2014, CAT adopted the guidance note on the constructive dialogue recommended by the chairpersons, while stressing that it provided a general framework that should not be in contradiction with CAT specificities concerning the dialogue with States parties. CAT specificities will be communicated orally by the Committee secretariat during technical briefings for States parties.

23. In September 2014, CED adopted the guidance note.

24. In October 2014, CRPD endorsed the guidance note.

25. In March 2015, CEDAW decided to adopt the guidance note, with the understanding that the Committee would continue to hold its constructive dialogues with States parties in two consecutive meetings on a single day.

26. In March 2015, CESCR endorsed the guidance note, with reservations expressed by some of its members.

IV. Concluding observations

27. The chairpersons, at their twenty-sixth annual meeting, supported the call made by the General Assembly in its resolution 68/268, paragraph 6, for the treaty bodies to adopt concluding observations that were short, focused and concrete, bearing in mind the specificities of the respective committees and their mandates. They expressed their belief that it would be helpful for the issues raised in the concluding observations to have been the subject of discussion during the dialogue, and considered that that should usually be the case.

28. The chairpersons encouraged the treaty bodies to formulate recommendations that provided specific and actionable guidance on measures for implementing treaty obligations, including time-bound targets or any priorities, where relevant.

29. Inspired by paragraph 6 of resolution 68/268, the chairpersons endorsed a framework for concluding observations (A/69/285, annex II), to be understood in the light of the need for each treaty body to exercise the framework flexibly so that the concluding observations respected and reflected the specificities of each convention and treaty body.

30. Since the twenty-sixth meeting of the chairpersons, six treaty bodies, namely, CERD, CRC, CRPD, CED, CESCR and CEDAW, have already adopted or endorsed the framework for concluding observations endorsed by the chairpersons. The recommendations of the chairpersons relating to concluding observations do not apply to the Subcommittee on Prevention of Torture.

31. In August 2014, CERD decided to adopt the framework for concluding observations.

32. In September 2014, CRC decided to follow the format of concluding observations proposed by the chairpersons at their twenty-sixth meeting and to work to reduce the word length of concluding observations by 20 per cent of the current average length by the end of 2015.

33. In October 2014, CRPD endorsed the framework for concluding observations.

34. In September 2014, CED adopted the framework.

35. In March 2015, CESCR endorsed the framework.

36. In March 2015, CEDAW endorsed the framework with the understanding that, in accordance with its practice, the Committee could only raise, in its concluding observations, issues discussed during the constructive dialogue with the State party concerned.